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**U.S. Equal Employment Opportunity Commission, Plaintiff, v.
Salum Revilla Enterprises, L.L.C., dba Achiote Restaurant, and
Does 1-10 Inclusive, Defendants.**

Judge Larry A. Burns

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U.S. Equal Employment Opportunity Commission, Plaintiff, v. Salum Revilla Enterprises, L.L.C., dba Achiote Restaurant, and Does 1-10 Inclusive, Defendants.

Keywords

EEOC, Salum Revilla Enterprises LLC, Achiote Restaurants, Does 1-10 Inclusive, 3:15-cv-01974-LAB-RBB, Consent Decree, Hostile Work Environment, Constructive Discharge, Retaliation, Sex, Male, Service, Title VII, Employment Law

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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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12 U.S. EQUAL EMPLOYMENT
13 OPPORTUNITY COMMISSION,

14 Plaintiff,

15 v.

16 SALUM REVILLA ENTERPRISES,
17 L.L.C., dba ACHIOTE
18 RESTAURANT, and Does 1-10
19 Inclusive,

20 Defendant(s).
21

Case No.: 3:15-cv-01974-LAB-RBB

CONSENT DECREE; ORDER

The Honorable Larry A. Burns
United States District Judge

22
23 Plaintiff United States Equal Employment Opportunity Commission
24 (“EEOC” or “Plaintiff”) and Defendant Salum Revilla Enterprises, L.L.C., dba
25 ACHIOTE RESTAURANT (“Defendant”), hereby stipulate and agree to the entry
26 of this Consent Decree (“Decree”) to resolve the Commission’s complaint against
27 Defendant in U.S. Equal Employment Opportunity Commission v. Salum Revilla
28 Enterprises, Case No. 3:15-CV-01974-LAB-RBB (the “Action”).

On September 3, 2015, Plaintiff filed this Action in the United States District Court, Southern District of California, for violations of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. (“Title VII”). The Action alleges Defendant violated Title VII by unlawfully subjecting Charging Party Mario Campos and other similarly situated male employees (“Claimants”) to a hostile work environment on the basis of sex, male. The Action further alleges that Campos was subjected to adverse actions, a hostile work environment, and constructive discharge in retaliation for engaging in protected activity.

I. PURPOSES AND SCOPE OF THE DECREE

A. The parties to the Decree are EEOC and Defendant Salum Revilla Enterprises, L.L.C. (collectively, the “Parties”). The Parties agree that the Action against Defendant should be fully and completely resolved by entry of the Consent Decree. This Decree shall be binding on and enforceable against Defendant, including its officers, directors, and any successors.

B. The Parties have entered into this Decree for the following purposes:

1. To provide appropriate monetary and injunctive relief;
2. To ensure that Defendant’s employment practices comply with federal law;
3. To ensure a work environment free from discrimination;
4. To ensure training for Defendant’s managers and employees with respect to the pertinent laws regarding gender discrimination/harassment and retaliation; and
5. To provide an appropriate and effective mechanism for handling complaints of gender discrimination/harassment and retaliation in the workplace.

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1 **IV. EFFECTIVE DATE AND DURATION OF DECREE**

2 A. The provisions and agreements contained herein are effective
3 immediately upon the date in which this Decree is entered by the Court (“the
4 Effective Date”).

5 B. Except as otherwise provided herein, this Decree shall remain in
6 effect for three (3) years after the Effective Date.

7 **V. MODIFICATION AND SEVERABILITY**

8 A. This Decree constitutes the complete understanding of the Parties with
9 respect to the matters contained herein. No waiver, modification, or amendment of
10 any provision of this Decree will be effective unless made in writing and signed by
11 an authorized representative of each of the Parties.

12 B. If one or more of the provisions of the Decree are rendered unlawful
13 or unenforceable, the Parties shall make good faith efforts to agree upon
14 appropriate amendments to this Decree in order to effectuate the purposes of the
15 Decree. In any event, the remaining provisions will remain in full force and effect
16 unless the purposes of the Decree cannot, despite the Parties’ best efforts, be
17 achieved.

18 C. By mutual agreement of the Parties, this Decree may be amended or
19 modified in the interests of justice and fairness in order to effectuate the provisions
20 of the Decree.

21 **VI. COMPLIANCE AND RESOLUTION**

22 A. The Parties agree that if the EEOC has reason to believe that
23 Defendant has failed to comply with any provision of this Decree, the EEOC may
24 bring an action before this Court to enforce the Decree. Prior to initiating such
25 action, the EEOC will notify Defendant and its legal counsel of record, in writing,
26 of the nature of the dispute. This notice shall specify the particular provision(s)
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1 that the EEOC believes Defendant has breached. Defendant shall have twenty-one
 2 (21) days to attempt to resolve or cure the breach after receipt of the EEOC's
 3 notice. However, the Parties may agree to extend this period upon mutual consent.

4 B. After sixty (60) days of the EEOC's notice of non-compliance and no
 5 resolution or agreement has been reached, the EEOC may petition this Court for
 6 resolution of the dispute. The EEOC may seek all available relief, including an
 7 extension of the term of the Decree for such period of time that the Court finds the
 8 Decree was not complied with and/or any other relief that the Court may deem
 9 appropriate.

10 **VII. MONETARY RELIEF**

11 A. In settlement of this lawsuit, Defendant shall pay the gross sum of
 12 \$ 27,500.00 (twenty-seven thousand five hundred dollars and zero cents) in total
 13 monetary relief. \$25,000 shall be allocated to Charging Party Mario Campos, and
 14 \$2,500.00 shall be allocated as a Class Fund.

15 B. With respect to payment to Mario Campos, Defendant shall make
 16 minimum monthly payments of \$2,500 due by the end of each month with the first
 17 payment due within fourteen (14) days of the Effective Date of this decree.
 18 Defendant may make larger monthly payments than the minimum required with
 19 said additional payments to be applied towards the next required monthly payment.
 20 There is no pre-payment penalty.

21 C. Within thirty (30) days of the Effective Date of this Decree, the EEOC
 22 shall forward a distribution list to Defendant identifying any eligible class
 23 member(s) and the specific monetary allocation identified class member(s).
 24 Within fourteen (14) days of receiving the distribution list from the EEOC,
 25 Defendant shall issue and forward payment to the class members identified in the
 26 EEOC's distribution list *via* U.S. Certified Mail.
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1 D. In the event no class members are identified and come forward,
2 Defendant shall use the Class Fund to cover costs for this Decree's compliance.

3 E. All monetary relief to Charging Party Mario Campos or any identified
4 class member(s) shall be designated as non-wage compensation and no tax-
5 withholding shall be made. Defendant shall prepare and distribute Form 1099 or
6 equivalent tax reporting forms to Mario Campos any class member(s) identified by
7 the EEOC, and shall make the appropriate reports to the Internal Revenue Service
8 and other tax authorities.

9 F. Within three (3) business days of the issuance of each and every
10 settlement check/installment, Defendant shall submit a copy of the check and
11 related correspondence to Anna Y. Park, Regional Attorney, U.S. Equal
12 Employment Opportunity Commission, 255 East Temple Street, 4th Floor, Los
13 Angeles, California, 90012.
14

15 **VIII. VICTIM SPECIFIC RELIEF**

16 A. Defendant shall purge Mario Campos' employment records of any
17 negative warnings, disciplines, or other negative references during the time of his
18 employment with Defendant.

19 B. If an inquiry is made into Mario Campos' employment history, the
20 only information that shall be disclosed will be the dates of employment, the
21 positions he held, and that his job performance was satisfactory.

22 **IX. GENERAL INJUNCTIVE RELIEF**

23 A. Anti-Discrimination

24 Defendant, its officers, directors, agents, management (including all
25 supervisory employees), successors, and assigns, are hereby enjoined from: (a)
26 engaging in harassment of any person(s) on the basis of his/her gender; (b)

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engaging in or being a party to any action, policy, or practice that discriminates and/or creates a hostile work environment on the basis of any employee's sex; and/or (c) creating, facilitating, or permitting the existence of a work environment that is hostile to employees on the basis of sex.

B. Retaliation

Defendant, its officers, directors, agents, management (including all supervisory employees), successors, assigns and all those in active concert or participation with them, or any of them, are hereby enjoined to not engage in, implement, or permit any action, policy or practice that retaliates against any current or former employee or applicant of Defendant or its successors because he/she has in the past, or during the term of this Decree, either: (a) opposed any practice made unlawful under Title VII; (b) filed a charge of discrimination alleging such practice; (c) testified or participated in any manner in any investigation (including, without limitation, any internal investigation undertaken by Defendant or its successors) or proceeding in connection with this Action or relating to any claim of a Title VII violation; (d) been identified as a possible witness or claimant in this Action; (e) asserted any rights under this Decree; (f) sought and/or received any relief in accordance with this Decree; or (g) are associated with an employee who has engaged in the activities set forth in Section XI.B.

X. SPECIFIC INJUNCTIVE RELIEF

A. Equal Employment Opportunity Monitor

1. Within thirty (30) days of the Effective Date of this Decree, Defendant shall retain a third-party Equal Employment Opportunity Monitor ("Monitor") with demonstrated experience in areas of employment discrimination
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1 and retaliation. The Monitor shall monitor Defendant's compliance with Title VII
2 and the provisions of this Decree.

3 2. The Monitor shall be subject to the EEOC's approval, which
4 shall not be unreasonably withheld. Defendant shall provide a list of at least three
5 (3) recommended monitors for the EEOC's approval. The EEOC shall not
6 unreasonably disapprove any recommended monitors. Defendant shall bear all
7 costs associated with the selection and retention of the Monitor and the
8 performance of his/her duties. Should the Monitor be unable or unwilling to
9 continue as Monitor for the duration of the Decree, the procedures set forth in this
10 Decree shall also apply to the selection of a new Monitor.

11 3. The Monitor's responsibilities shall include:

- 12 a. Reviewing and revising Defendant's policies and procedures,
13 including its complaint procedures, relating to discrimination and
14 retaliation, to ensure that they fully comply with Title VII and the
15 requirements set forth in this Decree;
16 b. Ensuring Defendant's compliance with the terms of the Decree;
17 c. Ensuring Defendant maintains policies and procedures that
18 effectively carry out its obligations under Title VII and this
19 Decree;
20 d. Ensuring that all employees are trained on their rights and
21 responsibilities under Title VII and this Decree, including but not
22 limited to Defendant's responsibilities and policies regarding
23 harassment and retaliation;
24 e. Ensuring that all employees are trained on how to complain
25 regarding harassment and retaliation as well as monitoring
26 Defendant's investigation into such information;
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- 1 f. Ensuring Defendant has procedures in place to promptly and
- 2 effectively handle complaints of harassment and retaliation;
- 3 g. Monitoring Defendant's investigations to:
 - 4 i. Ensure that investigations are conducted in an effective
 - 5 manner;
 - 6 ii. Ensure that Defendant properly communicates with
 - 7 complainants regarding the complaint procedure, status of
 - 8 the investigation, results of the investigation, and any
 - 9 remedial action taken; and
 - 10 iii. Ensure that Defendant adequately monitors the workplace
 - 11 after complaints to ensure no retaliatory actions are taken
 - 12 against the complainant.
- 13 h. Ensuring that Defendant maintains records regarding any and all
- 14 discrimination, harassment, and retaliation complaints, as required
- 15 by this Decree;
- 16 i. Preparing reports to the EEOC on Defendant's progress and its
- 17 compliance under this Decree;
- 18 j. Providing updates to the EEOC regarding Defendant's compliance
- 19 with the terms of the Decree; and
- 20 k. Ensuring that all reports required by this Decree are accurately
- 21 compiled and timely submitted.
- 22

23 B. Policies and Procedures

24 Within ninety (90) days of the Effective Date of this Decree, Defendant,
25 with the assistance of its Monitor, shall implement new companywide policies and
26 procedures regarding employment discrimination prohibited by Title VII (the
27 "Policy") in English and Spanish. The revised policy shall include:
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- a. A clear explanation of prohibited conduct under the Policy, including an explanation that harassment and discrimination on the basis of race, color, national origin, sex, age, disability, creed/religion, or any other protected class, and retaliation is prohibited with a particular emphasis that the company will not tolerate any incidents of sexual harassment or retaliation;
- b. An assurance that employees who make complaints of harassment/discrimination or provide information related to such complaints will be protected against retaliation;
- c. A clearly described complaint process that provides accessible and confidential avenues for complaints, including information regarding an internal and external person whom employees may report incidents of discrimination and retaliation;
- d. An assurance that Defendant will protect the confidentiality of complainants to the extent possible from being disclosed to those persons who do not need to know;
- e. Assurances that the complaint process will include a prompt, thorough, and impartial investigation;
- f. A procedure for communicating with the complainant regarding the status of the complaint/investigation, results of the investigation, and any remedial action taken;
- g. An instruction that supervisors and managers shall report to human resource personnel incidents of harassment, discrimination, or retaliation that they witness or are aware of; and
- h. Assurances that Defendant will take immediate and appropriate corrective action if it determines that harassment/discrimination

1 and/or retaliation has occurred.

2 1. Procedure for Handling Complaints

3 Defendant further agrees that the Policy shall also describe the process by
4 which Defendant will handle complaints of discrimination. The Policy shall at
5 minimum provide:

- 6 a. Upon a complaint by an employee or any other form of notice, the
7 employee or supervisor receiving the complaint shall inform their
8 immediate supervisor, owner, the EEO monitor, and any potential
9 successor ;
- 10 b. Defendant shall conduct a prompt and thorough investigation of all
11 complaints, including but not limited to interviewing the complaining
12 party/victim, the alleged perpetrator, and all available or identifiable
13 witnesses;
- 14 c. Defendant shall meet with and update the complaining party/victim of
15 the status of the investigation;
- 16 d. Defendant's employees shall take all reasonable steps to maintain
17 confidentiality;
- 18 e. At the conclusion of the investigation, Defendant shall take all
19 appropriate steps to remedy and prevent future incidents of
20 discrimination, harassment, and retaliation; and
- 21 f. Defendant shall monitor the work place subsequent to the investigation
22 to ensure that no retaliatory acts have been taken against the
23 complaining party/victim.

24 2. Retention of Records Related to Complaints

25 With the assistance of the Monitor, Defendant shall implement a system and
26 retain records for tracking, gathering, and retaining discrimination, harassment, and
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1 retaliation complaints. Defendant shall track records of each and every
2 discrimination complaint to enable the Monitor to identify any repeat offenders,
3 breakdown(s) in the complaint process, and supervisors who repeatedly fail to
4 prevent and correct discrimination or retaliation. These tracking records shall
5 include the following information:

- 6 a. The names of the individuals alleging discrimination or retaliation;
- 7 b. The date and nature of the complaint;
- 8 c. A description of the alleged discriminatory events and the dates the
9 events took place;
- 10 d. The names of the alleged perpetrators of discrimination or
11 retaliation, including whether the alleged perpetrator has been the
12 subject of any previous complaints of harassment or
13 discrimination;
- 14 e. The identity of the supervisor, manager or human resources
15 personnel who investigated and/or made a determination regarding
16 the complaint;
- 17 f. A description of what the supervisor, manager or human resources
18 personnel did when s/he conducted an investigation into the
19 complaint;
- 20 g. The results of Defendant's investigation and subsequent
21 determination regarding the complaint; and
- 22 h. A description and dates of any remedial action taken, if any, in
23 response to the complaint.

24
25 3. Distribution of Revised Policy

26 Within one hundred twenty (120) days of the Effective Date of this Decree,
27 Defendant shall distribute this revised Policy to all employees in a language the
28

1 employee(s) understands. Thereafter, Defendant shall distribute the revised Policy
 2 within thirty (30) days of the hire date of any new employee(s). Defendant shall
 3 also ensure that the revised Policy is in a language the employee understands.

4 C. Performance Evaluations

5 Within one-hundred and twenty (120) days of the Effective Date of this
 6 Decree, Defendant shall create a provision in the annual performance evaluation of
 7 its managers, supervisors, and human resources personnel to hold individuals
 8 accountable for failing to appropriately remedy or report incidents of
 9 harassment/discrimination, or retaliation for engaging in harassment/discrimination
 10 or retaliation, and for failing to comply with Defendant's policies and procedures
 11 regarding harassment, retaliation, or discrimination.
 12

13 D. Posting of Notice of Consent Decree and Settlement

14 Within thirty (30) days of the Effective Date of this Decree, and for the
 15 duration of the Decree, Defendant shall ensure that it has posted the Notice of
 16 Consent Decree and Settlement in English and Spanish, attached to this Decree as
 17 Exhibit A, in a conspicuous place accessible at all of Defendant's facilities.

18 E. Training

19 1. Hourly Employees

20 Within ninety (90) days of the Effective Date of this Decree, and annually
 21 thereafter, Defendant shall provide live training, lasting at least one (1) hours in
 22 duration to all of Defendant's hourly employees. The training shall be conducted
 23 in a language the employees understand and shall cover the Policy, Defendant's
 24 complaint process, and federal laws regarding employment discrimination with a
 25 particular emphasis on gender discrimination/harassment and retaliation. The
 26 training shall be in person and have interactive components. Where an employee
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1 is unable to attend the scheduled training, Defendant shall provide a live
2 training at an alternative session within sixty (60) days of the training

3 2. Supervisory/Managerial Employees

4 Within six (6) months of the Effective Date of this Decree and annually
5 thereafter, Defendant shall provide an additional live and interactive training to
6 managers, supervisors, hiring officials, and human resources or compliance staff
7 members. The training shall be at least two (2) hours in duration and be in a
8 language employees understand. This training shall cover: (1) the
9 supervisor/manager's obligations and responsibilities under Defendant's Policy,
10 (2) Defendant's complaint process and procedures, procedures and steps
11 supervisors and managers shall take in responding to incidents of discrimination or
12 retaliation which they become aware of, and (3) federal laws regarding
13 employment discrimination. If an employee is unable to attend the scheduled
14 training, Defendant shall provide a live training at an alternative session within
15 sixty (60) days of the initial training.

16 Defendant agrees to follow California state law training requirements regarding
17 sexual harassment in addition to any obligations under this section.

18 3. Training Verification

19 All persons required to attend training shall verify their attendance in
20 writing.
21

22 **XI. RECORD KEEPING AND REPORTING**

23 A. Document Preservation

24 For the duration of the Decree, Defendants shall maintain records as are
25 necessary to demonstrate their compliance with this Decree, including but not
26 limited to the documents specifically identified below, all documents generated
27 through the duration of the Decree in connection with Defendant's compliance
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1 with the Decree, any complaints regarding harassment, any investigation into the
2 complaint, and any resolution of the complaint.

3 B. Initial Reports

4 Defendant shall provide the following initial reports to the EEOC:

- 5 1. Within thirty (30) days of the Effective Date of this Decree,
6 Defendant shall confirm in writing that the Notice of Consent Decree and
7 Settlement has been posted pursuant to Section X.D. of the Decree.
8
9 2. With (one-hundred and twenty)(120) days of the Effective date,
10 Defendant shall provide to the EEOC a copy of the revised Policy
11 and confirmation that it has distributed such Policy to all
12 employees pursuant to Section X.B.3 of the Decree.
13
14 3. Within (one-hundred and twenty) (120) days of the Effective Date
15 of this Decree, Defendant shall provide all documents verifying the
16 occurrence of all training sessions conducted as required under
17 Section X.E. of this Decree. This includes the written training
18 materials used, a description of the training provided, a list of the
19 individuals who conducted the training, and the attendance records
20 including the job titles of attendees at each training session.

21 C. Annual Reports

22 No later than the anniversary date for each year of the Decree's duration,
23 Defendant shall provide the EEOC with the following:

- 24 1. The attendance records for all training sessions, including the
25 written training materials used, a description of the training provided, and a list of
26 the individuals who conducted training that have occurred since the initial report;
27
28 2. Employees' signed acknowledgments confirming receipt of

1 Defendant's EEO the Policy for all employees hired since the initial report to the
2 EEOC;

3 3. A description of all gender discrimination, harassment, and/or
4 retaliation complaints made since the submission of the immediately preceding
5 report hereunder. This description shall include the names of the individuals
6 alleging discrimination or retaliation; the nature of the complaint; the names of the
7 alleged perpetrators of discrimination or retaliation, including whether the alleged
8 perpetrator has been the subject of any previous complaints of harassment or
9 discrimination; the dates of the alleged discrimination or retaliation; a brief
10 summary of how each complaint was resolved; the identity of the employee(s) who
11 investigated and/or resolved each complaint; and the identities of any supervisor,
12 human resource personnel, or other individual involved in making any
13 determinations about the complaint. Defendant shall also identify any individuals
14 accused who have been either the subject of more than one complaint of
15 harassment or discrimination. If no results have been reached as of the time of the
16 report, the result shall be included in the next report;

18 4. Verification that the Notice of Consent Decree and Settlement and
19 Policy continue to be posted in a conspicuous place accessible to all employees;

20 5. A summary of the procedures and record keeping methods
21 developed for the centralized tracking of discrimination, harassment, and
22 retaliation complaints and the monitoring of such complaints;

23 6. The status of Defendant's compliance with all the terms of the
24 Decree; and

25 7. Whether any revisions of Defendant's policies and procedures
26 regarding discrimination, retaliation, and harassment have been revised since the
27 last report, including a copy of the revised policies or procedures.
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XII. MISCELLANEOUS PROVISIONS

A. During the term of this Decree, Defendant shall provide any potential successor-in-interest with a copy of this Decree within a reasonable time of not less than thirty (30) days prior to the execution of any agreement for acquisition or assumption of control of any of all of Defendant's facilities, or any other material change in corporate structure. Defendant shall simultaneously inform the EEOC of any such agreement for acquisition, assumption of control, or other material change in corporate structure.

B. During the term of this Decree, Defendant shall assure that each of its directors, officers, managers, and supervisors are aware of term(s) of this Decree which may be related to his/her job duties.

C. Unless otherwise stated, all notices, reports and correspondence required under this Decree shall be delivered to the attention of Anna Y. Park, Regional Attorney, U.S. Equal Employment Opportunity Commission, 255 East Temple Street, 4th Floor, Los Angeles, California, 90012; facsimile number (213) 894-1301.

D. This Decree may be signed in counterparts. A facsimile signature shall have the same force and effect of an original signature or copy thereof.

XIII. COSTS AND ATTORNEYS' FEES

Defendant shall bear all costs associated with its administration and implementation of its obligations under this Decree, including but not limited to the distribution of the settlement money. Each party shall bear its own costs of suit and attorneys' fees.

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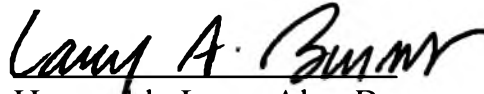
1 The parties have consented to exercise of jurisdiction by a United States Magistrate
2 Judge over all disputes between and among the parties arising out of the settlement
3 agreement, including but not limited to interpretation and enforcement of the
4 settlement agreement.

5 **CONCLUSION AND ORDER**

6 For good cause shown, the Court hereby finds that compliance with all
7 provisions of the foregoing Decree is fair and adequate. The Magistrate Judge
8 shall retain jurisdiction over all disputes between and among the parties arising out
9 of the settlement agreement, including but not limited to interpretation and
10 enforcement of the terms of the settlement agreement. The Magistrate Judge will
11 also retain jurisdiction for the term of the foregoing Consent Decree, and the
12 provisions thereof are hereby approved.
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15 **IT IS SO ORDERED.**

16 DATED: April 22, 2016

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18 Honorable Larry Alan Burns
19 United States District Judge
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